

DAA7MENP

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

4 v.

13 CR 31 (KBF)

5 MARCOS MENDEZ PEREZ,

6 Defendant.

7 -----x

8 New York, N.Y.  
9 October 10, 2013  
1:11 p.m.

10 Before:

11 HON. KATHERINE B. FORREST,

12 District Judge

13  
14 APPEARANCES

15 PREET BHARARA,

16 United States Attorney for the  
Southern District of New York

17 REBECCA MERMELSTEIN

Assistant United States Attorney

18 NEIL B. CHECKMAN

19 Attorney for Defendant

20 ALSO PRESENT: MANUEL M. CASTRO, Spanish Interpreter  
21  
22  
23  
24  
25

DAA7MENP

(In open court)

THE DEPUTY CLERK: In the matter of United States of America v. Marcos Mendez Perez, 13 CR 31.

Counsel, please state your names for the record.

MS. MERMELSTEIN: Good afternoon, your Honor.

Rebecca Mermelstein for the government.

THE COURT: Good afternoon, Ms. Mermelstein.

MR. CHECKMAN: Good afternoon, your Honor.

Neil Checkman for Marcos Mendez Perez.

THE COURT: Good afternoon, Mr. Checkman.

And the Court notes that Mr. Mendez Perez is present here in court this afternoon.

Good afternoon, sir.

We are assisted this afternoon with the services of a Spanish-to-English interpreter. I'd ask my deputy to please swear the interpreter.

(Interpreter sworn)

THE COURT: Mr. Mendez Perez, I see that you're wearing the equipment that helps you hear the interpretation. If at any point in time the equipment malfunctions, let your lawyer know or wave your hand and we'll make sure it gets fixed right away. It's very important that you hear everything that's going on today.

I have received a copy of both a signed waiver of indictment, but also a Pimentel letter and a superseding

DAA7MENP

1 information.

2 So as I understand it, we've got three things on the  
3 agenda: First we need to determine whether or not the  
4 defendant, in fact, knowingly and voluntarily waives his right  
5 to proceed by way of indictment. If so, then we will arraign  
6 him on the superseding information. And then after we've done  
7 that, we'll proceed to determine whether or not he would like  
8 to enter a plea. And that's the agenda I've got.

9 Does anybody have anything additional or different on  
10 the agenda?

11 MS. MERMELSTEIN: No, your Honor.

12 MR. CHECKMAN: No, your Honor.

13 THE COURT: All right. Well, then we'll proceed with  
14 each of those things in that order.

15 Let me start then by going through the preliminaries  
16 for the waiver of indictment.

17 Now, Mr. Mendez Perez, what we are going to do is  
18 determine whether or not you, in fact, waive your right to  
19 proceed by way of indictment. And I'll explain what that is  
20 and how that differs from an information. I'm sure your lawyer  
21 has already, but I'll explain it to you again. If you have any  
22 questions at all about this or about any other matter that we  
23 cover today, please either ask your lawyer, or your lawyer can  
24 ask the Court additional clarification, or you can ask the  
25 Court for additional clarification. All right?

DAA7MENP

1 I want to make sure that your mind is clear right now,  
2 and that you understand these proceedings, both so that we can  
3 be sure that you're knowingly and voluntarily waiving your  
4 right to proceed by way of indictment, should you choose to do  
5 so, and also should you choose to enter a plea today, we want  
6 to make sure you understand all of the potential consequences  
7 that flow from that and the rights that you have. All right?

8 So I'm going to have my deputy place you under oath  
9 because I want to make sure -- I'm going to ask you some  
10 questions. I want to make sure your mind is clear.

11 So, Mr. Pecorino, please place the defendant under  
12 oath.

13 (Defendant sworn)

14 THE DEPUTY CLERK: Please state your full name for the  
15 record.

16 THE DEFENDANT: Marcos Mendez Perez.

17 THE COURT: Mr. Mendez Perez, do you understand that  
18 you are now under oath, which means that you have to answer my  
19 questions truthfully; and if you don't answer truthfully, you  
20 can be separately prosecuted for perjury?

21 THE DEFENDANT: Yes.

22 THE COURT: How old are you, sir?

23 THE DEFENDANT: Forty-two years old.

24 THE COURT: And where were you born?

25 THE DEFENDANT: Puebla, Mexico.

DAA7MENP

1 THE COURT: Are you a United States citizen?

2 THE DEFENDANT: No, I'm Mexican.

3 THE COURT: Do you understand that if you plead  
4 guilty, deportation back to Mexico is presumptively mandatory?

5 THE DEFENDANT: Yes.

6 THE COURT: And do you understand that at the very  
7 least, there can be serious adverse immigration consequences  
8 that can result from a guilty plea?

9 THE DEFENDANT: Yes.

10 THE COURT: What's the highest level of education that  
11 you achieved? The highest level of school that you went to.

12 THE DEFENDANT: I got up to the ninth grade, but I  
13 wasn't able to finish.

14 THE COURT: Can you read and write Spanish?

15 THE DEFENDANT: Yes.

16 THE COURT: Are you married, sir, or have you been  
17 married?

18 THE DEFENDANT: I am married.

19 THE COURT: Does your wife live in the United States?

20 THE DEFENDANT: No, in Mexico.

21 THE COURT: Do you have any children?

22 THE DEFENDANT: Five children.

23 THE COURT: How old are they?

24 THE DEFENDANT: The oldest one is 20, 19, 18, 16, 13.

25 THE COURT: All right. Have you ever been treated for

DAA7MENP

1 a drug addiction either in the United States, in Mexico, or  
2 anywhere else?

3 THE DEFENDANT: No, never. No, no.

4 THE COURT: Have you ever been treated for an alcohol  
5 problem either in the United States, Mexico, or anywhere?

6 THE DEFENDANT: No, never.

7 THE COURT: Have you ever been treated for any kind of  
8 mental illness or emotional problem in the United States,  
9 Mexico, or anywhere?

10 THE DEFENDANT: No.

11 THE COURT: Do you take any kinds of medicine on a  
12 regular basis?

13 THE DEFENDANT: No.

14 THE COURT: In the last 24 hours, have you taken any  
15 kind of medications at all?

16 THE DEFENDANT: No, no, nothing.

17 THE COURT: In the last 24 hours, have you had any  
18 alcoholic beverages?

19 THE DEFENDANT: No.

20 THE COURT: Is there anything about your medical  
21 history that you think the Court should know that you believe  
22 affects your ability to understand what's going on in court  
23 right now?

24 THE DEFENDANT: No.

25 THE COURT: Do you understand why we are here today?

DAA7MENP

1 THE DEFENDANT: Yes.

2 THE COURT: Is your mind clear right now?

3 THE DEFENDANT: Yes.

4 THE COURT: All right. Does either counsel have any  
5 doubt as to the competency of the defendant to waive his right  
6 to proceed by way of indictment, should he choose to do so, and  
7 to enter a plea, should he choose to do so later in these  
8 proceedings?

9 MS. MERMELSTEIN: No, your Honor.

10 MR. CHECKMAN: None whatsoever, your Honor.

11 THE COURT: The Court does find that Mr. Mendez Perez  
12 answers my questions very directly with very responsive  
13 answers, and he is certainly competent to consider the matters  
14 that we are going to go over today, to waive his right to  
15 proceed by way of indictment, should he choose to do so, and to  
16 enter a plea, should he choose to do so later today.

17 Mr. Mendez Perez, what we are going to do next is talk  
18 about what a waiver of indictment means. I have received a  
19 copy of a form in English that is called a waiver of indictment  
20 form. An indictment is a document which contains charges  
21 against you that is issued by a grand jury, and signed by the  
22 foreperson of the grand jury and the U.S. Attorney after  
23 evidence has been presented to the grand jury. And if the  
24 grand jury then decides, determines, that there is sufficient  
25 evidence to indict someone, the charges against that defendant

DAA7MENP

1 are contained in a document that's called an indictment.

2 Do you understand that?

3 THE DEFENDANT: Yes.

4 THE COURT: All right. Now, an information, and the  
5 superseding information which I have here against you, is  
6 different. It is not an indictment. It is signed only by the  
7 U.S. Attorney.

8 Do you understand that?

9 THE DEFENDANT: Yes.

10 THE COURT: And what that means is that the evidence  
11 against you that has been set forth in the superseding  
12 information was not presented to the grand jury.

13 Do you understand that?

14 THE DEFENDANT: Yes.

15 THE COURT: There is a serious charge contained in the  
16 superseding information against you. And you have a right to  
17 have the evidence related to that charge presented to a grand  
18 jury to see whether the grand jury would agree that there's  
19 sufficient evidence to have you indicted for this charge.

20 Do you understand that?

21 THE DEFENDANT: Yes.

22 THE COURT: Have you discussed these matters with your  
23 lawyer?

24 THE DEFENDANT: Yes.

25 THE COURT: I'm going to show you this waiver of



DAA7MENP

1 indictment form which I have received, and ask you whether or  
2 not this is your signature on the form.

3 We'll mark it as Court Exhibit 1.

4 THE DEFENDANT: Yes, it is.

5 THE COURT: And, Mr. Mendez Perez, when you signed  
6 this form, did you sign it after having had it translated to  
7 you into Spanish?

8 THE DEFENDANT: Yes.

9 THE COURT: When you signed this form, did you  
10 understand that you were giving up your right to proceed by way  
11 of indictment, and instead were agreeing voluntarily to proceed  
12 by way of information?

13 THE DEFENDANT: Yes.

14 THE COURT: Based upon the defendant's answers to my  
15 questions, I find that he has voluntarily and knowingly waived  
16 his right to proceed by way of indictment, and has agreed to  
17 proceed by way of information.

18 What we're going to do now, Mr. Mendez Perez, is  
19 arraign you now on the superseding information. But I'm not  
20 going to ask you for a plea on the superseding information yet.  
21 What I'm going to do is go through some preliminary matters,  
22 and then I'm going to go through a bunch of rights that you  
23 have, and ask you for a plea only towards the end. All right?

24 Have you seen a copy of the superseding information  
25 that contains the charge against you?

DAA7MENP

1 THE DEFENDANT: Yes.

2 THE COURT: And have you had an opportunity to have it  
3 translated for you into Spanish?

4 THE DEFENDANT: Yes.

5 MR. CHECKMAN: Your Honor, I just want, so the record  
6 is clear, I've provided the defendant with a Spanish copy of  
7 the information.

8 THE COURT: All right. Thank you.

9 And have you had an opportunity to speak to your  
10 lawyer about the charge contained against you in the  
11 superseding information?

12 THE DEFENDANT: Yes.

13 THE COURT: And do you understand that in Count One,  
14 you are charged with a conspiracy to promote, manage, or  
15 facilitate prostitution?

16 THE DEFENDANT: Yes.

17 THE COURT: Would you like to have the Court read the  
18 charge against you here now in open court?

19 THE DEFENDANT: No.

20 THE COURT: All right. Before I ask you to enter a  
21 plea, what I'm going to do is go through some other rights that  
22 you have.

23 Do you understand that you have a right to a lawyer  
24 now and at every stage of the proceedings against you?

25 THE DEFENDANT: Yes.

DAA7MENP

1 THE COURT: And do you understand that if you went to  
2 trial, that means you would have a right to a lawyer at that  
3 trial, and if you couldn't afford a lawyer, a lawyer would be  
4 appointed for you?

5 THE DEFENDANT: Yes.

6 THE COURT: And you're represented by Mr. Checkman; is  
7 that right?

8 THE DEFENDANT: Yes.

9 THE COURT: And are you satisfied with his  
10 representation of you?

11 THE DEFENDANT: Yes, yes, very much.

12 THE COURT: Have you had an opportunity to discuss the  
13 charges against you with Mr. Checkman, any defenses you may  
14 have to that charge, and the consequences that might flow from  
15 entering a guilty plea to that charge?

16 THE DEFENDANT: Yes.

17 THE COURT: Now, I want to talk to you about your  
18 right to a trial on the charge contained in the superseding  
19 information; because if you plead guilty to that charge, you  
20 will be giving up your right to a trial.

21 Do you understand that?

22 THE DEFENDANT: Yes.

23 THE COURT: And do you understand as you sit here  
24 right now, you have not yet pled guilty to that charge; you  
25 could still go to trial. Do you understand that?

DAA7MENP

1 THE DEFENDANT: Yes.

2 THE COURT: The only time you're going to give up your  
3 right to go to trial is if and when you ever enter a guilty  
4 plea. All right? If you don't enter a guilty plea, you retain  
5 your right to go to trial.

6 Do you understand?

7 THE DEFENDANT: Yes.

8 THE COURT: Under the laws of the United States and  
9 the U.S. Constitution, you are entitled to a right to a trial,  
10 a jury trial, of the charge contained against you in the  
11 superseding information.

12 Do you understand that?

13 THE DEFENDANT: Yes.

14 THE COURT: And at that trial, a jury of 12 people  
15 would have to agree unanimously that you were guilty of the  
16 charge contained in the superseding information before they  
17 could return a verdict of guilty against you.

18 Do you understand that?

19 THE DEFENDANT: Yes.

20 THE COURT: And during any trial on the superseding  
21 information, witnesses for the government would have to come to  
22 court and testify in your presence, and Mr. Checkman would have  
23 an opportunity to cross-examine those witnesses. And he would  
24 have an opportunity to object to evidence offered by the  
25 government, and also he could subpoena witnesses to come to

DAA7MENP

1 court to testify on your behalf, and to offer evidence on your  
2 behalf.

3 Do you understand those things?

4 THE DEFENDANT: Yes.

5 THE COURT: And at a trial, you would have a right to  
6 testify, but you would also have a right not to testify if you  
7 chose not to testify.

8 Do you understand that?

9 THE DEFENDANT: Yes.

10 THE COURT: And if you chose not to testify, the jury  
11 would be instructed that they could not draw any inference or  
12 suggestion of guilt from the fact that you did not testify.

13 Do you understand that?

14 THE DEFENDANT: Yes.

15 THE COURT: Do you understand that at a trial, you  
16 would never have to prove that you were innocent; the  
17 government would bear the burden of proof throughout the trial,  
18 and they would have to prove that you were guilty beyond a  
19 reasonable doubt before you could be found guilty.

20 Do you understand that?

21 THE DEFENDANT: Yes.

22 THE COURT: Now, if you plead guilty to Count One, you  
23 will be giving up your right to go to trial.

24 Do you understand that?

25 THE DEFENDANT: Yes.

DAA7MENP

1           THE COURT: And I would later sentence you based upon  
2 that guilty plea and based upon other information I receive  
3 from the government, from the probation office, and from your  
4 lawyer.

5           Do you understand that?

6           THE DEFENDANT: Yes.

7           THE COURT: Now, I want to talk about the charge  
8 that's contained in Count One and the possible consequences  
9 that could flow from entering a guilty plea to that charge.

10          As we discussed a moment ago, you're charged with one  
11 count of conspiracy to promote, manage, or facilitate  
12 prostitution.

13          Do you understand that?

14          THE DEFENDANT: Yes.

15          THE COURT: And do you understand that the maximum  
16 term of imprisonment associated with that charge is five years?

17          THE DEFENDANT: Yes.

18          THE COURT: And that there's also a maximum term of  
19 supervised release of three years?

20          THE DEFENDANT: Yes.

21          THE COURT: And that there's a maximum fine of the  
22 greatest of \$250,000, twice the gross pecuniary gain derived  
23 from the offense, or twice the gross pecuniary loss to persons  
24 other than yourself resulting from the offense, and a \$100  
25 mandatory special assessment.

DAA7MENP

1 Do you understand that?

2 THE DEFENDANT: Yes.

3 THE COURT: And do you understand that the Court, in  
4 addition to imposing a fine, could possibly also order  
5 restitution and forfeiture, if appropriate?

6 THE DEFENDANT: Yes.

7 THE COURT: Do you understand that in this letter that  
8 the government has provided to you dated September 29th, 2013,  
9 the government has provided its estimate of a potential  
10 guidelines range for you, a sentencing guidelines range for  
11 you, but that the government's estimate is not binding on the  
12 Court?

13 Do you understand that?

14 THE DEFENDANT: Yes.

15 THE COURT: The letter that the government provided to  
16 your lawyer and to you is called a Pimentel letter. And it  
17 simply provides the government's estimation as to what your  
18 offense level is and your Criminal History Category is, among  
19 other things. But the Court must separately determine the  
20 appropriate offense level for you and your Criminal History  
21 Category before your sentencing.

22 Do you understand that?

23 THE DEFENDANT: Yes.

24 THE COURT: Now, that could mean that when I calculate  
25 your offense level, Mr. Mendez Perez, I could come up with a

DAA7MENP

1 higher offense level than what the government has told you they  
2 have calculated, or a lower level offense level than what the  
3 government has calculated.

4 Do you understand that?

5 THE DEFENDANT: Yes.

6 THE COURT: Now, in this letter that the government  
7 has provided to you, they have calculated your offense level as  
8 20 and your Criminal History Category as I.

9 Do you understand that?

10 THE DEFENDANT: Yes.

11 THE COURT: And that corresponds in the back of this  
12 book which I'm holding up, which is a book called the  
13 sentencing guidelines, that offense level of 20 and I  
14 corresponds to a potential imprisonment range -- potential --  
15 of 33 to 41 months.

16 Do you understand that?

17 THE DEFENDANT: Yes.

18 THE COURT: But do you understand that if the Court  
19 came up with a higher offense level, the Court is not bound by  
20 what the government has set forth; the Court would look to the  
21 sentencing guidelines range associated with its calculation of  
22 the offense level?

23 Do you understand that?

24 THE DEFENDANT: Yes.

25 THE COURT: The Court ultimately cannot impose a



DAA7MENP

1 sentence that is greater than the statutory maximum of five  
2 years.

3 Do you understand that?

4 THE DEFENDANT: Yes.

5 THE COURT: Has anybody promised you what your  
6 sentence is going to be?

7 THE DEFENDANT: No.

8 THE COURT: Has anybody promised you that you will not  
9 be sentenced to a term of imprisonment if you plead guilty?

10 THE DEFENDANT: No.

11 THE COURT: Has anybody promised you that you will not  
12 be sentenced to prison; that you will be sent home immediately  
13 if you plead guilty?

14 THE DEFENDANT: No.

15 THE COURT: Do you have any agreement with the  
16 government at all?

17 THE DEFENDANT: No.

18 THE COURT: So do you understand that if your sentence  
19 ends up being different from what you hope it will be or expect  
20 that it might be, if you plead guilty, you will be bound by  
21 your plea, and you won't be able to withdraw your plea?

22 Do you understand that?

23 THE DEFENDANT: Yes.

24 THE COURT: Now, it's very important that if you  
25 maintain a desire to potentially want to plead guilty to the

DAA7MENP

1 count in the superseding information, that you're doing so  
2 voluntarily; that nobody is forcing you to plead guilty.

3 Has anybody forced you or threatened you in any way to  
4 plead guilty?

5 THE DEFENDANT: No, no one.

6 THE COURT: Now, if you want to plead guilty, you'll  
7 have to give up your right not to incriminate yourself because  
8 it's very important that if you decide to plead guilty, you're  
9 pleading guilty because you are, in fact, guilty, and for no  
10 other reason.

11 Do you understand that?

12 THE DEFENDANT: Yes.

13 THE COURT: So now what I want to do is to ask  
14 Ms. Mermelstein to tell us what the elements are of the  
15 offense, and then I'm going to ask you, Mr. Mendez Perez, to  
16 tell the Court, after she's done talking, why you think you're  
17 guilty of this charge.

18 MS. MERMELSTEIN: The defendant is charged with  
19 conspiring to violate the Travel Act. Accordingly, in order to  
20 prove that the defendant committed the offense charged, the  
21 government would have to prove first that the defendant  
22 traveled or caused someone else to travel interstate, or used  
23 or caused someone else to use an interstate facility; second,  
24 that the travel or the use of an interstate facility was done  
25 with the intent to promote, manage, establish, or carry on, or

DAA7MENP

1 to distribute the proceeds of an unlawful activity; and, third,  
2 that the interstate travel or the use of an interstate facility  
3 that -- excuse me. Third, that after the interstate travel or  
4 use of the interstate facility the defendant performed or  
5 attempted to perform an act in furtherance or distributed the  
6 proceeds of that same unlawful activity.

7 Here, sending a wire transfer of prostitution proceeds  
8 or making a phone call concerning prostitution would qualify as  
9 a use of an interstate facility. And if the government  
10 proceeded to trial, it would prove that the defendant had used  
11 both of those interstate facilities, in particular, that he  
12 worked in a Poughkeepsie brothel where he used his cell phone  
13 to communicate with another person working in the brothel about  
14 the arrival of customers for the brothel, and that he sent  
15 prostitution proceeds from his work in the brothel to his  
16 family in Mexico.

17 (Continued on next page)

18  
19  
20  
21  
22  
23  
24  
25

DAA7MEN2

1 THE COURT: All right. As I understand, Ms.  
2 Mermelstein, from the superseding information, the defendant is  
3 charged with conspiracy?

4 MS. MERMELSTEIN: That's right.

5 THE COURT: All right. OK. So, Mr. Mendes Perez.  
6 Why don't you tell the court in your words why you think you  
7 are guilty of Count One.

8 MR. CHECKMAN: Your Honor, if the Court please, prior  
9 to coming to court today, and in preparation of the anticipated  
10 plea, I, together with a certified Spanish interpreter, visited  
11 Mr. Mendez Perez at the Metropolitan Detention Center. We went  
12 over a prospective plea allocution, your Honor, which we  
13 believe -- and after consultation with the government, they  
14 believe -- will satisfy the necessities of the statute, and we  
15 would ask the court's permission to read that in Spanish.

16 THE COURT: He can certainly read that in Spanish. It  
17 will be translated, and then I will ask you some questions to  
18 be sure that you agree with every word, but we'll do that  
19 afterwards.

20 THE DEFENDANT: Beginning in October of 2012 until  
21 April of 2013, in Poughkeepsie, New York, I entered into an  
22 agreement with other people for me to work as a person in  
23 charge of the door of a brothel in Poughkeepsie, New York, this  
24 way promoting prostitution in this brothel. And I did use a  
25 cell phone for that purpose.

DAA7MEN2

1 THE COURT: All right.

2 Now, Poughkeepsie is in Dutchess County. What is the  
3 proffer of venue?

4 MS. MERMELSTEIN: It is in the Southern District of  
5 New York.

6 THE COURT: OK.

7 MS. MERMELSTEIN: I should note that the conspiracy  
8 that's charged here at large involved brothels as well in  
9 Yonkers and Newburgh, which are also in the Southern District  
10 of New York, and that many of the defendants lived in Queens  
11 and traveled from there likely through the Southern District of  
12 New York, so I think venue is covered on multiple fronts.

13 MR. CHECKMAN: And for our part, your Honor, we would  
14 concede venue in the Southern District of New York.

15 THE COURT: All right. Thank you. Now, Mr. Mendes  
16 Perez, do you understand every word of what you just read to  
17 the court?

18 THE DEFENDANT: Yes.

19 THE COURT: What does promoting prostitution mean to  
20 you?

21 THE DEFENDANT: To obtain money, to make money for a  
22 purpose.

23 THE COURT: All right. And did you understand you  
24 were furthering a prostitution enterprise when you were doing  
25 what you were doing?

DAA7MEN2

1 THE DEFENDANT: Yes.

2 THE COURT: OK. Ms. Mermelstein, do you believe there  
3 is a sufficient factual basis for a plea? I understand that  
4 the wiring of the money is not part of this allocution, but the  
5 use of a cell phone I think is there.

6 MS. MERMELSTEIN: I don't think that the defendant can  
7 allocute to every possible method. I would say he used his  
8 cell phone on multiple occasions since it requires its use, the  
9 promotion and then its use again.

10 THE COURT: All right. Mr. Mendez Perez, did you use  
11 your cell phone in connection with your work at the brothel on  
12 more than one occasion?

13 THE DEFENDANT: Yes. Yes.

14 THE COURT: Did you use it multiple times in  
15 connection with that work?

16 THE DEFENDANT: Yes.

17 THE COURT: All right. Ms. Mermelstein, do you  
18 believe there is now a sufficient factual predicate for a plea  
19 of guilty, should the defendant choose to enter one?

20 MS. MERMELSTEIN: I do.

21 THE COURT: Mr. Checkman, do you have any reason that  
22 you know of why your client should not enter a plea of guilty,  
23 should he choose to do so?

24 MR. CHECKMAN: No, your Honor.

25 THE COURT: All right. Mr. Mendez Perez, it's now

DAA7MEN2

1 time for you to make your final decision. As I told you, there  
2 would come a point in the proceedings when I would ask you for  
3 your formal plea.

4 If you plead guilty, you will give up your right to go  
5 to trial, as I have described to you; and you know all the  
6 possible consequences that could come from entering a guilty  
7 plea. But I am now going to ask you how do you plead to Count  
8 One of the superseding information? Guilty or not guilty?

9 THE DEFENDANT: Guilty.

10 THE COURT: Since you acknowledge that you are in fact  
11 guilty of the crime that is charged in Count One of the  
12 superseding information, and since I am satisfied that you know  
13 of your rights, including your right to go to trial, and that  
14 you understand the consequences that flow from entering a  
15 guilty plea, and that you are pleading guilty voluntarily, I  
16 accept your plea.

17 What we will do now is we will set a date for your  
18 sentencing. That takes a little while, because the probation  
19 office will want to interview you. They will prepare something  
20 called a presentence investigation report -- it goes by the  
21 name PSR -- which they will then provide to the court. It will  
22 tell me a fair amount about the crime, the role that you played  
23 in the overall crime, where you fit into the picture, as well  
24 as some information specifically about you.

25 Mr. Checkman, will you facilitate that interview?

DAA7MEN2

1 MR. CHECKMAN: I will, your Honor, and wish to be  
2 present during that interview.

3 THE COURT: Thank you. And, Mr. Checkman, if you do  
4 not receive a copy of the PSR 40 days prior to the sentencing  
5 date -- which I will give you in a moment -- will you let the  
6 court know? And I will try to shake it loose so you can have  
7 it within 35 days of the sentencing date.

8 MR. CHECKMAN: I will, your Honor.

9 THE COURT: The sentencing date that we currently have  
10 is January 31, 2014 at 11 a.m. Does that work?

11 MR. CHECKMAN: Yes, your Honor.

12 MS. MERMELSTEIN: Yes, your Honor.

13 THE COURT: That would make the defense submission due  
14 on January 17 and the government submission due on January 24.

15 And, Mr. Checkman and Ms. Mermelstein -- I think,  
16 Ms. Mermelstein, you may have heard this before, but,  
17 Mr. Checkman, so you understand my practice, I try very hard to  
18 keep sentencing dates. I protect them as much as possible on  
19 my calendar, and I will have scheduled it around other things,  
20 even right now; so, to the extent you can try to protect it as  
21 well. I understand you will have things that will come up, and  
22 you will be ordered to be places that you may have no control  
23 over, but to the extent you can control it, if you can try to  
24 protect that date, I will be most appreciative.

25 MR. CHECKMAN: I will give it my best efforts, your



DAA7MEN2

1 Honor.

2 THE COURT: Now, Mr. Mendez Perez, you will receive a  
3 draft of this PSR and have a chance to go through it with your  
4 lawyer before it ever comes to the court. If you notice any  
5 errors in it, raise them with Mr. Checkman so that he can raise  
6 them with the court, or have the probation office change them,  
7 if they will. All right?

8 Is there anything else that should be done at this  
9 time?

10 MS. MERMELSTEIN: No, your Honor.

11 MR. CHECKMAN: Nothing from the defense, your Honor.

12 THE COURT: Thank you. We are adjourned.

13 MR. CHECKMAN: Thank you.

14 (Adjourned to January 31, 2014 at 11:00 a.m.)  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25